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Atorneys for Defendant  
GARY D. NELSON ASSOCIATES, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JERRICK MOORE, on behalf of  
himself, all others similarly situated,

Plaintiff,

GARY D. NELSON ASSOCIATES,  
INC., a California corporation; and  
DOES 1 through 50, inclusive.

### Defendants.

Case No. 4:20-CV-9150

**NOTICE OF REMOVAL OF  
ACTION TO FEDERAL COURT  
PURSUANT TO 28 U.S.C. §§ 1441(A)  
AND 1446**

1     **TO THE CLERK OF THE ABOVE-ENTITLED COURT, PLAINTIFF**  
 2     **JERRICK MOORE AND HIS ATTORNEYS OF RECORD:**

3                 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441(a) and 1446,  
 4 defendant GARY D. NELSON ASSOCIATES, INC (“Defendant”), by and through  
 5 undersigned counsel, hereby removes the action described below from the Superior  
 6 Court of the State of California, County of Alameda, to the United States District Court  
 7 for the Northern District of California, Oakland Division. This Removal is based on  
 8 the original jurisdiction of the District Court over the parties under 28 U.S.C. §§ 1331,  
 9 1441(a) & 1446. This Notice is based upon the original jurisdiction of this Court over  
 10 the parties under 28 U.S.C. § 1331, the existence of a federal question herein.  
 11 Defendant makes the following allegations in support of its Notice of Removal:

12     **I. STATEMENT OF JURISDICTION**

13         **A. FEDERAL QUESTION JURISDICTION**

14         1. This Court has original jurisdiction over this matter because it arises under  
 15 the laws of the United States. 28 U.S.C. §§ 1331.

16         2. “The district courts shall have original jurisdiction of all actions arising  
 17 under the Constitution, laws or treatises of the United States.” 28 U.S.C. § 1331. In  
 18 deciding whether a suit arises under federal law, the district court must abide by the  
 19 “well pleaded complaint” rule, under which a suit arises under federal law only when  
 20 the plaintiff’s statement of his own cause of action shows that it is based on federal law.  
*Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

22         3. This case plainly arises under federal law. The first and only cause of  
 23 action in Plaintiff’s Complaint – for failing to make proper disclosures and failing to  
 24 obtain proper authorization – specifically, unambiguously and expressly allege  
 25 violations of federal statutes, namely, the Fair Credit Reporting Act (15 U.S.C. § 1681  
 26 *et seq.*). See Complaint ¶¶ 24-36. As a result, the Complaint seeks a determination of  
 27 whether Defendant violated federal law. Thus, this Court has original jurisdiction over  
 28 this action.

1       4. Because this court has original jurisdiction over this case, removal of this  
 2 case to federal court is proper. 28 U.S.C. § 1441(a).

3 **II. VENUE**

4       5. The action is pending in the Superior Court of California for the County of  
 5 Alameda. Thus, it is proper for Defendant to remove this action to the United States  
 6 District Court for the Northern District of California, Oakland Division, pursuant to 28  
 7 U.S.C. §§ 84(c), 1391(a) and 1441(a).

8 **III. PLEADINGS, PROCESS AND ORDERS**

9       6. On October 19, 2020, Plaintiff Jerrick Moore (“Plaintiff”) filed a Class  
 10 Action Complaint against Defendant and various Doe defendants in Alameda Superior  
 11 Court: Jerrick Moore v. Gary D. Nelson Associates, Inc., Case No. RG20078452  
 12 (hereinafter, the “Complaint”). The Complaint alleges one cause of action for Violation  
 13 of 15 U.S.C. §§ 1681b(b)(2)(A) (Fair Credit Reporting Act).

14       7. On November 18, 2020, Plaintiff served Defendant via its registered agent  
 15 for service by process server the Summons, Complaint, and Civil Case Cover Sheet.  
 16 True and correct copies of these documents are attached to the Declaration of Alecia  
 17 W. Winfield (“Winfield Decl.”) hereto as Exhibits A, B, and C, respectively.

18       8. On December 8, 2020, Plaintiff filed a Notice of Hearing regarding the  
 19 Complex Determination Hearing and Case Management Conference. A true and correct  
 20 copy of Plaintiff’s Notice of Hearing is attached to the Winfield Decl. hereto as Exhibit  
 21 D.

22       9. On or about November 18, 2020, Plaintiff served Defendant’s registered  
 23 agent with a copy of the Summons and Complaint. On November 23, 2020, Plaintiff  
 24 filed a Proof of Service of Summons. A true and correct copy of Plaintiff’s Proof of  
 25 Service of Summons is attached to the Winfield Decl. hereto as Exhibit E.

26       10. On December 16, 2020, Defendant timely filed its Answer with the  
 27 Superior Court, a true and correct copy of which is attached to the Winfield Decl. hereto  
 28 as Exhibit F.

1       11. Pursuant to 28 U.S.C. § 1446(d), the attached exhibits constitute all  
 2 process, pleadings and orders served on Defendant or received by or filed by Defendant  
 3 in this action. To Defendant's knowledge, no further process, pleadings, or orders  
 4 related to this case have been filed in Los Angeles County Superior Court or served by  
 5 any party. To Defendant's knowledge, no proceedings related hereto have been heard  
 6 in Los Angeles County Superior Court.

7 **IV. INDIVIDUAL AND DOE DEFENDANTS**

8       12. No individual defendants are named in this action. Defendant is informed  
 9 and believes that none of the Doe defendants in this case have been identified or served.  
 10 Doe Defendants designated 1 to 50 are fictitious, are not parties to this action, have not  
 11 been served and are to be disregarded for the purpose of this removal. 28 U.S.C. §  
 12 1441(a). For this reason, the Doe Defendants need not be joined in this removal.  
 13 *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 n. 1 (9th Cir. 1988) (general rule  
 14 that all defendants in state action must join in removal only applies to defendants served  
 15 in the action); *Republic Western Ins. Co. v. International Ins.*, 765 F. Supp. 628, 629  
 16 (N.D. Cal. 1991) ("The law of this circuit [] is that defendants upon whom service has  
 17 not been effected at the time the notice is filed, need not join in the notice of removal.").

18 **V. TIMELINESS OF REMOVAL**

19       13. This Notice of Removal is timely filed as it is filed within thirty (30) days  
 20 of November 18, 2020, the date of service of the Summons and Complaint. 28 U.S.C.  
 21 § 1446(b); *see Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354  
 22 (1999) (the 30-day removal period runs from the service of the summons and  
 23 complaint).

24 **VI. NOTICE OF REMOVAL TO ADVERSE PARTY AND STATE COURT**

25       14. Contemporaneously with the filing of this Notice of Removal in the United  
 26 States District Court for the Northern District of California, written notice of such filing  
 27 will be given by the undersigned to Shaun Setareh ([shaun@setarehlaw.com](mailto:shaun@setarehlaw.com)) and David  
 28 Keledjian ([David@setarehlaw.com](mailto:David@setarehlaw.com)), Plaintiff's counsel of record. In addition, a copy

1 of this Notice of Removal will be filed with the Clerk of the Court for the Superior  
2 Court of the County of Alameda, California.

3 **VII. CONCLUSION**

4 15. Removal of this action is therefore proper as the claims arise under a  
5 federal statute. 28 U.S.C. §§ 1331.

6 WHEREFORE, Defendants respectfully remove this action from the Superior  
7 Court of California, County of Alameda, to the above-entitled Court.

8  
9 Dated: December 17, 2020  
10

11 */s/ Leah E. Peterson*  
12 ALECIA W. WINFIELD  
13 LEAH E. PETERSON  
14 LITTLER MENDELSON, P.C.  
15 Attorneys for Defendant  
16 GARY D. NELSON ASSOCIATES,  
17 INC.  
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